



Office of Command Counsel Newsletter

June 2003, Volume 03-03

AMC Continuing Legal Education Program 2003----Special Edition

The annual AMC Continuing Legal Education Program for 2003 was held on May 19-23 in front of a near record audience of attendees from AMC, other DA and DOD organizations.

The evaluation sheets completed and submitted by attendees indicate that the revised format and new elements were received very well.

The first order of business is to thank the CLE Planning Committee: **Steve Klatsky, COL Dave Howlett, Mike Lassman, Vera Meza, Bill Adams and Larry Anderson** for the work they did in conjunction with the ideas that many of you suggested. Of course, the main thanks goes to **Holly Saunders** for her exceptional skill in planning and administering the CLE and ensuring that all have a great experience.

This year we attempted some new things. First, the Acting Command Counsel, Deputy Command Counsel/Staff Judge Advocate and Chief Counsels held an Open Forum, where they fielded

questions from the audience on a variety of matters. Although, the dialogue was spirited and frank, many questions could not be addressed within the time constraints. Accordingly, you, our reader, may send questions you would like answered to **Steve Klatsky**, who will see to it that the AMC Chief Counsels have the opportunity to comment.

Additionally, we held various Modules on Acquisition, Employment, Intellectual Property and Environmental matters. Included were two extensive programs: a panel on Source Selection, chaired by CECOM's **Mark Sagan** and a Moot Court Merit Systems Protection Board hearing chaired by HQ AMC's **Mike Lassman**, and presided over by MSPB Judge **Rich Vitaris**.

If you attended, we hope you had a great experience, and all of you will have access to the various CLE materials on the CD provided to your organizations.

The CLE Agenda is at Enclosure 1.

Marie Bribriesco: AMC Attorney of the Year

Ed Korte Honored-- Preventive Law Award Named for Former AMC Command Counsel

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Preventive Law Award Named for Ed Korte

I, General Paul J. Kern, Commander of the United States Army Materiel Command, recognize that one of the hallmarks of the AMC Legal Community is the practice of Preventive Law.

The Preventive Law philosophy encourages each attorney to anticipate the needs of clients and commands, to identify areas of greatest vulnerability, and to develop programs to address those needs.

During the 15 years that Edward J. Korte led the Army Materiel Command as the AMC Command Counsel, the concept of Preventive Law was of highest priority, and consistently applied as exemplified by many major AMC Legal Office initiatives.

Preventive Law is a major component of each AMC Commander's Conference—the Office of Command Counsel provides 10 Point Papers on important legal developments, distributed to all at-

tendees and AMC Commanders. Additionally, AMC major subordinate command Chief Counsels are asked to actively participate by identifying Preventive Law initiatives and programs and sharing them throughout the Command. Last, in order to emphasize the importance of the Preventive Law philosophy to AMC, a Preventive Law Award is presented at each AMC Continuing Legal Education Program.

To recognize and honor Ed Korte's Preventive Law legacy to the Army Materiel Command, it is my pleasure to announce that from this day forward the AMC Preventive Law Award will be named the Edward J. Korte Award for Preventive Law.

Signed and executed on this date Thursday May 22, 2003.

Paul J. Kern
General USA
Commander

Staff

Command Counsel
Edward J. Korte

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Contributions are encouraged. Please send them electronically as a Microsoft® Word® file to sklatsky@hqamc.army.mil

Check out the Newsletter on the Web at http://www.amc.army.mil/amc/command_counsel/

Letters to the Editor are accepted. Length must be no longer than 250 words. All submissions may be edited for clarity.

MARIA BRIBRIESCO-- AMC Attorney of the Year

The AMC Attorney of the Year Award is called the Joyce I. Allen Award. Joyce Allen was an attorney with the AMC legal office in St. Louis. Prior to her untimely death Ms. Allen had a long and distinguished career of contributions to her clients and the AMC legal community. She received the AMC Attorney of the Year Award in 1984.

This year's nominees selected for special recognition, in are:

John Biffoni SBCCOM

Howard Bookman,
CECOM

Larry M. Brady, TACOM-
ARDEC

Maria B. Bribriesco,
TACOM-RIA

Elizabeth Burt-Feller,
TACOM-Warren

K Krewer, TACOM-RI

John Seeck, JMC

Ray Stephens, AMCOM

John J. Welling, TACOM-
RI

The AMC Attorney of the Year for 2002...**Maria Bribriesco**, .

Excelling as litigator, innovator, counselor, strategist, advocate for the Army's interests, and champion for acqui-

sition reform, she has made a major contribution to the successful fulfillment of the Army's mission to provide its soldiers with the best in modern equipment.

Ms. Bribriesco has served in the TACOM-Rock Island Legal Group since December, 1995, after eleven years in the AMCCOM Legal Office. Most recently, Ms. Bribriesco has been the field attorney in a highly visible series of disputes involving an FMS case for construction of a Multi-Purpose Range Complex in Kuwait.

Despite the fact that her work is frequently carried out in a highly visible and highly charged atmosphere, Ms. Bribriesco never fails to lose her good humor, her attention to her clients' best interests, or her focus on the overall mission. She is skillful at concentrating on the main issues, and reserving her precious time on the issues that do not yet require resolution. Although she is an enthusiastic and formidable combatant, she nonetheless can set differences aside and work

with a variety of interests to achieve a common goal. Even opposing attorneys have spoken highly of her legal abilities as a forceful, yet reasonable, advocate. Several have referred to her as the "best Army attorney" they had ever encountered, and as a "credit to public service."

Ms. Bribriesco's strong sense of dedication, commitment, and responsibility has frequently caused her to place the Army's interests above her own. Long hours, late nights, the continual need to referee and balance numerous competing interests, and a continuing high level of stress have not served to reduce her attention to duty.

Indeed, many of her tasks were carried out while both she and her spouse were undergoing significant health problems and treatment. She does what she loves, and loves what she does. Her endeavors and accomplishments, replete with novel, complex, and wide-ranging issues are truly deserving of recognition as AMC Joyce Allen Attorney of the Year.

pecial CLE edition

Tischer Receives Buckley Managerial Award

Mr. Francis J. Buckley, Jr. was Chief Counsel of the US Army Missile Command, Huntsville for 32 years.

Candidates for the Buckley Managerial Excellence Award are:

Paula Pennypacker,
CECOM

Arthur Tischer, AMCOM

Arthur H. Tischer Team Leader and lead Patent attorney at the Aviation and Missile Command (AMCOM) Legal Office has been a patent attorney with the Government for nearly 38 years of which 33 years have been with the AMC Legal community. Art has served as a supervisor or team leader for 28 years. He was reassigned from the Aviation Command (AVCOM) in St. Louis, Missouri to his current

position at AMCOM in October of 1997. His managerial abilities and technical knowledge have made it possible for the Aviation and Missile Command and PEO managers to receive the highest quality intellectual property law advice necessary to protect the Government's interests.

Through innovative actions, Art successfully reduced the backlog of invention disclosures by more than 15% (on average) for each of the past 5 years in spite of being understaffed by one patent attorney during CY 00, having lost two patent advisors during CY 03 and having to train an inexperienced patent attorney in CY 01.

Most recently, Art initiated a process to automate the many time-consuming,

yet necessary administrative functions of this office.

In addition to his duties of managing AMCOM's Intellectual Property Law Division, Art led the AMCOM Legal Office's Consideration of Others (CO2) Training program. There have been 17 quarterly training sessions with presenters from diverse organizations such as the FBI, Red Cross, and AMCOM's legal Office personnel with subjects varying from "Winter Wilderness Survival" to "Sensitivity Issues Confronting the Workforce."

His success in managing this mandatory training program in a manner that provided topics and speakers that created interest is an example of how the Legal Office can provide leadership and guidance by their actions, not just through their legal advice.

Korte Preventive Law Award to CECOM's Carroll and Chupien

The Awards Committee identified the following nominees, for this year's Preventive Law Program Award as deserving special recognition:

Betty Baxter, TACOM-Warren

Tom Carroll and Ted Chupien—CECOM

Brad Crosson, JMC

Anna Maria Martin, TACOM-Warren

Vincent Rannuci, SBCCOM-Natick

Gary Suttles, AMCOM

Tom Carroll and Ted Chupien—CECOM, are selected for the Korte Award

Messrs. Carroll and Chupien have been key members of a CECOM Team working with the Office of the Secretary of Defense's Change Management Center (CMC) on a Project called "Exodus". The project is named "Exodus" due to the large numbers of senior leaders in DoD, especially within the acquisition workforce, that are expected to retire in the next five years. Its purpose is to identify and collect tacit knowledge (what's in people's heads) before they retire to

mitigate the loss of critical intellectual capital. CMC selected CECOM as one of three DoD pilot sites to demonstrate the success of Knowledge Management tools. The CECOM Team identified the development of appropriate evaluation factors for Source Selections as a critical business problem that could be solved through the sharing/transferring of knowledge.

The result of this six-month effort was the development of a Source Selection Knowledge Asset (KnA). The KnA is an electronic repository of information that resides on the CECOM Knowledge Center. It includes text, video and audio files across the breadth of the Source Selection discipline. Each of these areas is hyperlinked to more specific information, thereby providing the workforce with an enhanced understanding of the many facets of Source Selection and techniques available for use.

Through this enhanced understanding, it is anticipated that the workforce will become more efficient and effective in structuring and implementing Source Selections.

John Seeck: Achievement Award

John Seeck, of the Joint Munitions Command—Rock Island, received the Command Counsel Achievement Award, nominated by HQ AMC Counsel.

Mr. Seeck has been a tremendous asset to the Department of Defense Office of General Counsel and the Department of Justice during the on-going criminal prosecution of the unlawful possession of weapons originally manufactured for the Army.

Mr. Seeck provided critical information to our office and to the U.S. Attorney's Office regarding the decades-old production contract and ammunition data cards. Additionally, Mr. Seeck analyzed the provenance of the weapons, their composition, and the obligation of a series of subcontractors to deliver to the Government or demilitarize the weapons based on the terms of the contract.

In all cases, Mr. Seeck's advice was timely, thorough, and accurate and contributed greatly to our ability to assist the Department of Justice in this prosecution.

Team Project Award-- Redstone Legal Assistance Team

AMC Newsletter Editor's Award Presented to CECOM

Three Teams were nominated this year:

—CECOM Joint Tactical Radio Systems Team

—Grounds Systems Support Enterprise Business Development Team—Rock Island Arsenal

—Redstone Arsenal Legal Assistance Team

The Team Project Award was presented to...

The Redstone Arsenal Legal Assistance Team—chaired by **Captain William Carpenter**.

Led by **CPT William Carpenter** and staffed by two paralegals, **Mr. Gerald Patterson** and **SSG Yates**, the Legal Assistance Office was responsible for the provision of legal services to a client population of over 100,000 people comprised of active duty soldiers, retirees, and their dependents.

CPT Carpenter made major improvements to the Legal Assistance Office

website. New links were added and more downloadable materials were included. These changes and marketing of the page resulted in over 1000 hits between late December 2002 and early March 2003.

Other members of the team include **Major John Hughey**, **Captain John Faris**, **Captain Erick Ottoson**, and **Captain Douglas Moore**.

The number of total clients served increased by approximately 9% over the preceding year. Evaluation forms submitted by clients have included overwhelmingly positive feedback.

In fact, not a single negative review was submitted by a client during this period of time. This is a true testament to the hard work, dedication, and sense of duty and compassion demonstrated by the Legal Assistance Team.

Great work and please get well soon.

At what is becoming almost an annual event at the AMC CLE Program, acting Chief Counsel **Mark Sagan** accepted the AMC Command Counsel Editor's Award for CECOM.

This is the sixth time CECOM or individuals from CECOM have been selected for the contributions made to the Newsletter.

Obviously, we depend on the support of all within the AMC Legal community for articles and entries.

We publish February, April, June, August, October and December issues. This ambitious schedule can only be met by your contributions—the reader.

Thanks to all who contribute, and especially to CECOM.

ANNUAL AMC
CONTINUING LEGAL EDUCATION PROGRAM
19-23 MAY 2003
GROSVENOR HOTEL
LAKE BUENA VISTA, FLORIDA

“AMC Attorneys: A Community of Excellence Dedicated to Serving Soldiers”

PROGRAM AGENDA

MONDAY, 19 MAY

1500 - 1700	REGISTRATION	(Mezzanine Level)
1800 - 1900	WELCOME RECEPTION (In the event of rain go to Salon 1-4)	(Courtyard)

TUESDAY, 20 MAY

0730 - 0800	COFFEE	
0800 - 0815	STEPHEN A. KLATSKY Assistant Command Counsel Headquarters, U.S. Army Materiel Command	(Salon 5-6-7)
0815 - 0845	KATHRYN T. H. SZYMANSKI Command Counsel (Acting) Headquarters, U.S. Army Materiel Command	(Salon 5-6-7)
0845 - 0910	BREAK	
0910 - 1010	"LOGISTICS IN CONTINGENCY OPERATIONS" A Client's Perspective: Overview of a logistics unit's support to Operation Enduring Freedom.	(Salon 5-6-7)
	LTC RICHARD BURNS Special Assistant to the Commanding General Headquarters, U.S. Army Materiel Command	
1010 - 1025	BREAK	

TUESDAY, 20 MAY (Continued)

1025 - 1100 **HONORABLE STEVEN J. MORELLO** (Salon 5-6-7)
General Counsel
Department of the Army

1100 – 1200 **"LEGAL TRANSFORMATION"** (Salon 5-6-7)
An examination of the major DA changes
that impact AMC and the AMC legal community.

ANTHONY B. SCONYERS
Chief Counsel
U.S. Army Joint Munitions Command

COL JAMES H. ROSENBLATT
Staff Judge Advocate
U.S. Army Training & Doctrine Command

COL RICHARD O'KEEFFE
Chief Counsel
Army Contracting Agency

1200 - 1330 LUNCH (Deli Buffet) (Baskerville Restaurant)

1330 - 1700 ***CONCURRENT MODULES***

1500 – 1520 BREAK

MSPB MOOT COURT (Salon 5-6-7)
This 3-hour session focuses on improving advocacy skills by
presenting and viewing a "mixed" case presented in the MSPB forum.
Following a brief introduction, the session opens with a mock
MSPB hearing presented by experienced practitioners before
MSPB Judge Richard W. Vitaris. Ms. Mary Fuhr, TACOM-
RIA and Ms. Laurie Kwiedorowicz, SBCCOM will interrogate
witnesses and make arguments on behalf of their clients. Attendees
can expect to learn about the development of claims and defenses,
the burden of proof and many more unique nuances of MSPB law
and practice.

ACQUISITION LAW (Salon 8-9)
Legal Support to Program Executive Officers. Mr. Edward T. Bair,
PEO Intelligence, Electronic Warfare and Sensors will discuss the role
of lawyers in supporting the PEOs.

TUESDAY, 20 MAY (Continued)

ACQUISITION LAW (Continued)

(Salon 8-9)

Current Developments. **Mr. Levator Norsworthy, Jr.**, the Army Deputy General Counsel (Acquisition) will give a presentation on current Army acquisition issues.

GAO View Point. **Mr. Louis A. Chiarella**, Senior Attorney, Bid Protest Unit at the General Accounting Office, will discuss the current issues before the GAO. He will conduct his session in an informative Question & Answer format.

INTELLECTUAL PROPERTY LAW

(Salon 10-11)

DoD IP Guide Update/DoD T2 Guide. **LTC Greg Redick**, USAF, Office of the Under Secretary of Defense (Acquisition, Technology and Logistics) will discuss Version 2.0 of the DoD Intellectual Property Guide, the new DoD Technology Transition Guide, and IP Rights Training Modules.

Venture Capital. **Mr. Michael Zelenka**, CECOM, Chief IP Counsel will lead this discussion. The Army has been authorized by Congress to pursue a Venture Capital Initiative to be structured somewhat akin to that of the CIA and implemented through an "Other Transaction". It is hoped this approach will yield, in addition to a self-perpetuating return on investment, the development of new technologies along with access to previously unreachable technology, all aimed at improving the soldier's effectiveness.

CPEM ASBCA Case. **Mr. John Biffoni**, SBCCOM Patent Counsel will lead a discussion of *Campbell Plastics Engineering & Mfg. Inc. (CPEM)*, an Armed Services Board of Contract Appeals case involving patent rights clause FAR 52.227-11. CPEM was a contractor who obtained a patent on a subject invention without disclosing the invention or providing notice of any intent to file. The AMC Attorney who handled the case will discuss the events leading to the ASBCA decision.

Eldred v. Ashcroft. **Mr. Bill Adams**, HQ AMC Patent Counsel will discuss the Supreme Court decision in the case deciding the Constitutionality of the Sonny Bono Copyright Term Extension Act of 1998. Was this a "Mickey Mouse"® decision?

HQ AMC Report. **Mr. Bill Adams**, HQ AMC Patent Counsel will present various items of interest from the DOD Technology Transfer Working Group and the Interagency Working Group on Tech Transfer.

WEDNESDAY, 21 MAY

0730 - 0800

COFFEE

0800 - 0930

"CIVILIANS ON THE BATTLEFIELD"

(Salon 5-6-7)

A discussion of the issues associated with both DA civilian and contractor employees from the perspective of several disciplines. Examples include use of the LOGCAP contract, medical care for civilian employees, and other operational problems.

DAVID C. DeFRIEZE

Attorney Advisor

U.S. Army Joint Munitions Command

MAJ ART LEES

Attorney Advisor (U.S. Army Reserve)

Headquarters, U.S. Army Materiel Command

AMY ARMSTRONG

Associate Counsel

Headquarters, U.S. Army Materiel Command

0930 - 0950

BREAK

0950 - 1050

"FISCAL LAW"

(Salon 5-6-7)

This session will focus on several recent fiscal law controversies and developments. Included will be topics such as purchase of bottled water, contracting for security guards, government credit cards, professional credentials, and mementos.

DOMINICK J. BROGNANO

Associate Counsel

Headquarters, U.S. Army Materiel Command

ROBERT D. PASCHALL

Associate Counsel

Headquarters, U.S. Army Materiel Command

LTC MICHAEL J. BENJAMIN

Contract and Fiscal Law Department

The Judge Advocate General's School

WEDNESDAY, 21 MAY (Continued)

1050 – 1100

BREAK

1100 - 1200

"THE JAG CORPS PERSPECTIVE"

(Salon 5-6-7)

MG MICHAEL J. MARCHAND

The Assistant Judge Advocate General

Department of the Army

1200 - 1330

LUNCH (On your own)

1330 - 1700

CONCURRENT MODULES

1500 – 1520

BREAK

ACQUISITION LAW/SOURCE SELECTION (Salon 5-6-7)

This 3-hour session will discuss source selection topics at length. The panel will consist of six acquisition law experts moderated by **Mr. Mark Sagan**, CECOM. The program includes: **Mr. Tom Carroll**, CECOM, who will discuss Communications and Bargaining and Development of Evaluation Factors. **Ms. Sharon Patterson**, AMCOM, will discuss Debriefings and Methodology for SSA and SSA Briefings. **Ms. Sue Lewandowski**, TACOM will discuss Content and Structure of Source Selection Decision Documents (including the extent to which material should be redacted). **Mr. Mark Rutter**, ARL-ARO will discuss The Role of the Attorney in the Source Selection Process. **Mr. Peter Tuttle**, SBCCOM-SSC will discuss Organizational Conflict of Interest and Establishment of the Competitive Range. **Ms. Sandra Biermann**, JMC will discuss Evaluation of Small Business Participation Plans. **Ms. Denise Scott**, TACOM-ARDEC will discuss Whether and How to Evaluate the Availability of Data Rights in Source Selection.

EMPLOYMENT LAW (Salon 8-9)

New Developments in Equal Employment Opportunity.
Ms. Susan Bennett, TACOM-ANAD and **Mr. Michael Lassman**, HQ AMC will present information on current EEOC topics. This session will focus on recent decisions by the EEOC and the appellate courts. Topics include acceptance and dismissal of complaints, compensatory damages, attorney fees, reprisal, vicarious liability for harassment, sanctions and *contumacious* conduct.

Employee Relations. **Ms. Amy Armstrong, HQAMC** will examine topics that confront the Personnel community and our supervisors. Does your organization have a firm stance on the improper use of a government credit card? Is your installation really addressing employee computer misuse?

WEDNESDAY, 21 MAY (Continued)

EMPLOYMENT LAW (Continued)

(Salon 8-9)

National Security: Who's in the Bargaining Unit, and who's out. Update on DOD Personnel System.

Mr. Michael Lassman, HQ AMC will provide updates on significant developments.

ENVIRONMENTAL LAW

(Salon 10-11)

BRAC 05 Update. **Mr. Daryl Powell**, HQ AMC will focus on the BRAC 05 Legislation, the status of DoD/Army BRAC 05 planning efforts, and the potential impact of BRAC 05 on AMC.

Compliance Update. **Mr. John German**, HQ AMC will address issues associated with post-Installation Management Agency legal support, the status of environmental management systems (EMS), and other compliance related topics.

Restoration Update **Mr. Stan Citron**, HQ AMC will provide the latest information on the DoD/EPA Land Use Control dispute and efforts to implement land use controls at active and transferring installations. In addition, it will include an update on perchlorates.

THURSDAY, 22 MAY

0730 - 0800

COFFEE

0800 - 0900

“ETHICS IN PROCUREMENT”

(Salon 5-6-7)

The session will discuss new developments in the rapidly changing world of government ethics. There will be a focus on “lessons learned” from recent problems in other federal agencies.

PROFESSOR CHRISTOPHER R. YUKINS

Associate Professor of Government Contracts Law
The George Washington University Law School

ROBERT H. GARFIELD

Associate Counsel
Headquarters, U.S. Army Materiel Command

0900 - 0930

BREAK

THURSDAY, 22 MAY (Continued)

0930 - 1030 ***“AMC COMMAND COUNSEL (ACTING),
MSC CHIEF COUNSELS,
AND AMC SJA OPEN FORUM”*** (Salon 5-6-7)
Your chance to ask the AMC Acting Command Counsel,
MSC Chief Counsels and the AMC SJA the questions
and issues that you want discussed.

1030 - 1045 BREAK

1045 - 1100 ***“AMC COMMAND COUNSEL (ACTING),
MSC CHIEF COUNSELS,
AND AMC SJA OPEN FORUM”*** (Salon 5-6-7)

1100 – 1130 ***“AMC ATTORNEY CAREER PROGRAM”*** (Salon 5-6-7)
Highlighting the revised regulation.

STEPHEN A. KLATSKY
Assistant Command Counsel
Headquarters, U.S. Army Materiel Command

1130 - 1330 ***AMC ATTORNEY AWARDS PROGRAM
AND LUNCHEON*** (Salon 1-4)

MG JOHN E. STEVENS
Assistant Deputy Commanding General,
Army National Guard
Headquarters, U.S. Army Materiel Command

SPECIAL GUEST:
EDWARD J. KORTE
Command Counsel, Retired
Headquarters, U.S. Army Materiel Command

1330 - 1600 ***OPTIONALS***
1. Lockheed Martin Information Systems Visit hosted by:
 Lockheed Martin VP & General Counsel Edith Jones
2. Ethics Training Tape (Westminster Room)
3. Chief Counsels' Time w/CLE Attendees not attending
 Lockheed Martin or Ethics Training

FRIDAY, 23 MAY

0730 - 0930

BUFFET BREAKFAST

(Salon 1-4)

"Congressional Update"

An open forum with Congressional staffers on legislative developments of importance to DOD, DA, and AMC

COL KEVIN LOVEJOY

Legislative Counsel, OCLL
Department of the Army

CHRISTINA HAMILTON

Chief of Staff
Office of Representative David Obey (D-WI)

NICK PALARINO

Professional Staffer
House Government Reform Committee
Sub-Committee on National Security

JOSEPH F. GUZOWSKI

Deputy Chief
Army Congressional Budget Liaison

0930 - 1000

BREAK

1000 - 1145

"LEADERSHIP ENRICHMENT SESSION"

(Salon 1-4)

SECOND CITY COMMUNICATIONS

Leadership: Teamwork, Communication, Organizational
and Personal Relationships

RICHARD GOTERI

The Second City – Detroit

JAIME MOYER

The Second City - Detroit

1145 - 1200

CLOSING

(Salon 1-4)

KATHRYN T. H. SZYMANSKI

Command Counsel (Acting)
Headquarters, U.S. Army Materiel Command